



Office of the
LITTLETON BOARD OF APPEALS
Littleton, Massachusetts 01460

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Petitioner: Mary Lou Rizzardi and Dwight Long
Property Address: 363 King Street
Case No: 857A
Date Filed: July 27, 2015

The Littleton Board of Appeals (the "Board") conducted a public hearing on August 20, 2015 at the Littleton Town Offices, 37 Shattuck Street, Littleton, MA on the petition of Mary Lou Rizzardi and Dwight Long for a Variance pursuant to the Town of Littleton Zoning Bylaws Section 173-31 Intensity of Use Schedule to allow reduced side and rear setbacks for a proposed stone retaining wall and pool shed at 363 King Street. Notice of the hearing was given by publication in the Littleton Independent, a newspaper circulate in Littleton, on August 6 and 13, 2015 and by mail to all abutters and parties in interest. Present and voting were William Farnsworth, Acting Chair, Jeff Yates, and Cheryl Hollinger, Members, Alan Bell and Patrick Joyce, Alternate Members. Present but not voting were Marc Saucier and Rod Stewart, Alternates.

Documents submitted with Application:

- Certified List of Abutters, 363 King Street, from Board of Assessors, dated July 17, 2015
- Request for Setback Variance Narrative, 363 King Street, Littleton, Massachusetts, dated July 21, 2015 (no author given)
- Deed, B22955, P311
- Topographic Plan of Land in Littleton, Massachusetts, 363 King Street, by Stamski and McNary, Inc. dated December 15, 2014
- Landscape Master Plan for Long residence 363 King Street, Littleton, Massachusetts by Suzanne Hopkins McDonough, R.L.A. with last revision date 7/17/15

Susan McDonough, RLA, presented the petition on behalf of owners Mary Lou Rizzardi and Dwight Long. Mr. Dwight Long was present. Ms. McDonough stated that the existing rear yard landscape consists of a deteriorating above ground swimming pool and deck built into an eroding slope, lawn, stone terrace, garden and multiple staircases from the upper and middle tier landscape to the lower pool level. The owner, Mrs. Long (Mary Lou Rizzardi), has Multiple Sclerosis and as part of the landscape reconstruction the designed project will allow ADA accessibility from the house to all three elevations of the landscape. This design will allow Mrs. Long and her family access to the pool area for recreation and exercise into the future. The request is for two variances, one for a stone retaining wall where a section of it exceeds 4 foot in elevation within 1 foot of the property line. The second is to allow a pool shed to be constructed 5 feet from the property line as part of the landscape renovation / accessibility improvement project. Ms. McDonough further outlined the proposed design and referred to the plans submitted with the application. Mr. John Durkin, Onyx Corp, landscape contractor for the project stated the wall is needed to stabilize the soil and grade for water runoff. This has been approved by the Conservation Commission, wetlands abuts that portion of the property. It was stated that the hardship is that without the variance Mrs. Long would not be able to have access to the pool which is needed for health reasons and enjoyment of her family.

The variance request for the location of the wall and pool shed is owing to circumstances related to topography and soil conditions such that the property abuts wetlands at the rear. There was discussion about the closeness of the retaining wall to the property line, 1 foot, and the ability to construct and maintain it without trespassing onto the abutting property. It was agreed by the petitioner and owners to locate the wall no closer than 2 feet from the property line. There was no opposition to the location of the pool house.

Roland Bernier, Zoning Officer, submitted a statement dated August 17, 2015 in which he states the the proposed construction required a variance for creating a nonconformity.

Email from Richard P Crowley dated August 17, 2015 was submitted in support of the proposed project.

FINDINGS: The Board made the following findings:

1. The property is located in the Residence District.
2. Intensity of Use Schedule requires a 10 foot setback at side and rear for accessory building or structure.
3. A wall which retains four (4) or more feet of unbalanced fill is a structure.
4. The 10 foot by 16 foot pool house is a structure.
5. The property is bordered by wetlands at the rear.
6. The slope of the grade does require a retaining wall to stabilize the eroding slope.
7. The proposed design will allow Mrs. Long, who has Multiple Sclerosis, and her family access to the pool area. Without the variances, there would be a hardship such that Mrs. Long would not have handicap access to the area.
8. The site is appropriate and no significant nuisance, hazard or congestion will be created and that there will be no substantial harm to the neighborhood or derogation from the intent of the bylaw.

DECISION: The Board voted unanimously to GRANT the Variance for 363 King Street pursuant to Section 173-31 Intensity of Use Schedule to allow a proposed stone retaining wall and pool shed to be not less than two (2) feet from the property line as generally shown on the submitted plan.

Appeals, if any, shall be made pursuant to M.G.L. C. 40A, Section 17 and shall be filed within twenty (20) days after the date of filing of this Decision in the office of the Town Clerk.

The Variances shall not take effect until a copy of the Decision bearing the certificate of the Town Clerk is recorded with the Middlesex District Registry of Deeds in accordance with the provisions of M.G.L. C. 40A, Section 11 and 15 stating that twenty (20) days have elapsed after the Decision has been filed in the office of the Town Clerk and no appeal has been filed, or if such appeal has been filed it has been dismissed or denied.

DECISION: The Board voted unanimously) to GRANT under Section 173-6B (2) of the Town of Littleton Zoning Bylaws, Variances to allow the right side setback to be reduced to 12'.

Appeals, if any, shall be made pursuant to M.G.L. C. 40A, Section 17 and shall be filed within twenty (20) days after the date of filing of this Decision in the office of the Town Clerk.

The Variances shall not take effect until a copy of the Decision bearing the certificate of the Town Clerk is recorded with the Middlesex District Registry of Deeds in accordance with the provisions of M.G.L. C. 40A, Section 11 and 15 stating that twenty (20) days have elapsed after the Decision has been filed in the office of the Town Clerk and no appeal has been filed, or if such appeal has been filed it has been dismissed or denied.

If the rights authorized by this Variance are not exercised within one (1) year from the date of granting it shall elapse in accordance with the provisions of M.G.L. C. 40A Section 10.

Signed: Jeff Yates Jeff Yates, Clerk

Date: 9/16/2015

Book: 63082, Page: 558-60

I hereby certify that twenty (20) days have elapsed since the filing of the above Decision by the Board of Appeals and that no appeal concerning said decision has been filed or that any appeal that has been filed has been dismissed or denied.

True Copy Attest: _____ *Print name* _____
Town Clerk, Littleton, Massachusetts

Date: _____